

### **AMENDMENTS TO THE DRAWINGS**

Figures 1a and 1c have been amended to show openings 1a, 4a, and 5a for the housing 1, housing jacket 4, and housing jacket 5, respectively. Support for this amendment to Figures 1a and 1c can be found, for example, in the Applicant's paragraph #s 37 and 42-44. No new matter is added.

## REMARKS

Claims 1-30 were presented for examination. Claims 4, 8, 9, 14, 18, 20, 22, and 27-30 are presently withdrawn by the Examiner, for which the Applicant is herein requesting reconsideration. In addition, claims 1, 11, 19-22, and 27 are herein amended.

The Applicant notes the Examiner's acknowledgement of the information disclosure statement mailed on July 7, 2004 with appreciation.

The Applicant respectfully requests the Examiner to reconsider his withdrawal of dependent claims 4, 8, 9, 14, 18, 20, 22, and 27-30. Withdrawn **claims 4, 14, 20, and 22** are supported by the written description of Figures 1a-d at Applicant's paragraph #s 37 and 42-44 (which discuss porous qualities of the housing 1, housing jacket 4, and secondary jacket 5, and also discuss an example case where holes of each layer are spaced so that direct alignment between layers is avoided, which will in-turn prohibit direct product flow from the reservoir 6 to the outer surface of the device, as well as intake of secondary fluids). In addition, Figures 1a and 1c have been amended to show that housing 1, housing jacket 4, and housing jacket 5 have porous qualities (e.g., flow holes 1a, 4a and 5a respectively). Also, withdrawn **claims 8 and 9** are supported by the written description of Figures 1a-d at Applicant's paragraph # 65 (which discusses alternative pressure inducing mechanisms, including "a pressurized container" that may be "opened, broken, pierced, dissolved or otherwise forced into releasing its contents at least partially to cause pressure", or the "by-products of a chemical reaction" to cause pressure). Also, withdrawn **claims 18 and 27-30** are supported by the written description of Figures 1a-d at Applicant's paragraph # 39 (which discusses how the pump chamber 3a and plunger 3b cooperate with one another to cause pressure in the pump chamber 3a, and how the pump chamber is operatively coupled, for example, via a "one-way flap valve", to the inner area of the bladder 2). Specific flap valve embodiments are shown in Figures 1e-1n.

The Examiner objected to Figures 1a-d under 37 C.F.R. 1.83 in that the figures do not show a plurality of pores as recited in claims 1 and 11. The Applicant has amended Figures 1a

and 1c to show that housing 1, housing jacket 4, and housing jacket 5 have porous qualities (e.g., flow holes 1a, 4a and 5a, respectively). Support for this amendment to Figures 1a and 1c can be found, for example, in the Applicant's paragraph #s 37 and 42-44. Note that the porous qualities can be provided, for example, by a plurality of "holes", "apertures", "slits", "punctures", or a "porous weave". (Applicant's paragraph #0030). Generally stated, the porous qualities can be provided by any "openings" through which the product can ooze, weep, or otherwise flow, whether those openings are physically made (e.g., by piercing, stamping, slicing, or otherwise altering the natural material) or inherent in the material itself (e.g., based on fabric densities or EPI). (Applicant's paragraph #s 0037, 0059, and 0060).

The Applicant has reviewed the specification for minor errors, and has corrected those found, in accordance with Examiner's numbered paragraph 3.

The Examiner rejected claims 19, 21, and 23-26 under 35 U.S.C. §112, second paragraph as being indefinite, indicating that the phrase "porous qualities of the housing" is unclear. The Applicant has amended the claims accordingly, and respectfully requests the Examiner to reconsider and withdraw this rejection.

The Examiner rejected claims 11, 12, 17, and 19 under 35 U.S.C. §102(b) as being anticipated by Miessner (U.S. Patent 2,693,172).

The Applicant traverses this rejection. In addition, the Applicant has amended the claims to more distinctly define the claimed invention.

In order for Miessner to anticipate the claimed invention, Miessner must disclose or otherwise suggest each and every limitation recited in the claims. MPEP § 2131. Miessner fails to satisfy this standard.

The Applicant's independent **claim 1** recites, in part: "A hand-held self-dispensing applicator device" that is adapted "to provide a positive pressure in the internal reservoir, thereby causing the product to flow through the plurality of pores to the outer surface of the housing." Independent **claim 11** now recites, in part: "A hand-held self-dispensing applicator device" that is adapted "to provide a positive pressure in the internal reservoir that causes the product in the

internal reservoir to continuously flow through the plurality of pores to the outer surface of the housing for a period of 10 seconds or more.” Independent **claim 19** recites, in part: “A hand-held self-dispensing applicator device” that is adapted “to provide a positive pressure in the internal reservoir, which causes the product in the internal reservoir to flow to the outer surface of the housing.” Independent **claim 21** recites, in part: “A hand-held self-dispensing applicator device” that is adapted “to provide a positive pressure in the internal reservoir that causes the product in the internal reservoir to continuously flow to the outer surface of the housing for a period of 10 seconds or more.” Independent **claim 27** recites, in part: “A hand-held self-dispensing applicator device” that is adapted “to provide a positive pressure in the internal reservoir which causes the product in the internal reservoir to continuously flow through the plurality of pores to the outer surface of the housing for a period of 10 seconds of more.”

Thus, the claimed hand-held self-dispensing applicator device is adapted to provide a positive pressure in the internal reservoir. This positive pressure causes product in the internal reservoir to flow to the outer surface of the housing. In addition, the Applicant has amended the claims to more distinctly define the claimed invention, wherein the device is “for dispensing a dispensable non-powder product for the purpose of cleaning or treating a target surface.”

In contrast, Miessner discloses an antiflooding fountain pen, which is configured to allow filling of the pen barrel through the point end of the barrel. (Title, col. 1, lines 35-37). Miessner discloses that “the pens are filled by a series of pumping operations” (col. 5, lines 36-39). In more detail, Miessner discloses the pen may be filled with ink by first depressing pump rod 8. This action causes pump sac 7 to compress and expel air in the pen barrel 4 out of the pen. Miessner further states that if the pen point is in an ink well during this stage of the filling process, the expelled air will bubble up to free atmosphere. (col. 2, lines 54-72). When the pump rod 8 is released, ink is forced from the ink well into the barrel reservoir (col. 2, lines 72-77). Miessner further discloses: “This pump rod compression and release will pump about 1 cc. of ink into the barrel ...”. (col. 3, lines 4-6). The process is repeated until the barrel is full. During this filling operation, the ink collector 18 fills with ink, which feeds down by gravity and capillary action into the longitudinal slit 28 and into the radial capillary spaces or fin area 27 as well as through the annular ink space inside the pen and to the outside of the pen bore 22, through the hole 29. (col. 3, lines 12-17). Thus, Miessner’s pump rod 8 and pump sac 7 operate to pull ink

*into* the pen during a filling operation utilizing an internal vacuum (which can be thought of as negative pressure). Further, note that Miessener's disclosed pen construction "cannot leak or flood hence the objections of conventional pens are overcome." (col. 3, lines 45-47). Each of Miessener's pen configurations have similar filling operations. (col. 4, lines 7-42; col. 5, lines 8-29).

Note, however, that ink exits the pen when it feeds out of the ink collector to the pen point nibs by gravity and capillary action. (col. 3, lines 26-31; col. 4, lines 22-23; col. 5, lines 49-50). Significantly, Miessner discloses that the collector "has an air pressure equalizing connection to external atmosphere, so that its ink feed to the pen pint is not disturbed by trapped air pressure irregularities, and flows only by capillary and gravity action to the pen point nibs." (col. 5, lines 44-50; see also col. 4, lines 60-66: "With this construction there is no trapped air above the ink in the collector and annular spaces, which feed ink to the point, and the air pressure there is always equal to outside atmospheric pressure..."). Thus, Miessner does not disclose or suggest providing a positive pressure in the internal reservoir so as to cause product in that internal reservoir to flow to the outer surface of the housing via a plurality of pores or openings, as recited in the Applicant's claims. Rather, Miessner is actually teaching away from such by disclosing that the air pressure above the ink in the collector and annular spaces which feed ink to the pen point is always equal to outside atmospheric pressure. Furthermore, note that air is expelled through the hole at the end of the breather and filler tube 24 (which is near hole 29). (col. 2, lines 67-70). Even if ink is expelled through this hole at the end of the breather and filler tube 24 (which it is not designed for; see col. 1, lines 35-39), note that this hole is not a plurality of pores or openings as recited in the Applicant's claims. Nor is ink known to be "a dispensable non-powder product for the purpose of cleaning or treating a target surface", which is the type of product that the Applicant's claimed applicator device dispenses, as now recited in the claims.

For at least these reasons, the Applicant submits the claimed invention is patentably distinct over Miessner, and respectfully requests the Examiner to reconsider and withdraw this rejection.

The Examiner rejected claims 11-13, 15-17, 21, and 23-26 under 35 U.S.C. §102(b) as being anticipated by Hancy (U.S. Patent 4,557,620).

The Applicant traverses this rejection. In addition, the Applicant has amended the claims to more distinctly define the claimed invention.

In order for Hancy to anticipate the claimed invention, Hancy must disclose or otherwise suggest each and every limitation recited in the claims. MPEP § 2131. Hancy fails to satisfy this standard.

As previously explained, the Applicant's independent **claim 11** now recites, in part: "A hand-held self-dispensing applicator device" that is adapted "to provide a positive pressure in the internal reservoir that causes the product in the internal reservoir to continuously flow through the plurality of pores to the outer surface of the housing for a period of 10 seconds or more." Independent **claim 21** recites, in part: "A hand-held self-dispensing applicator device" that is adapted "to provide a positive pressure in the internal reservoir that causes the product in the internal reservoir to continuously flow to the outer surface of the housing for a period of 10 seconds or more." In addition, the Applicant has amended the claims to more distinctly define the claimed invention, wherein the device is "for dispensing a dispensable non-powder product for the purpose of cleaning or treating a target surface."

Thus, the claimed hand-held self-dispensing applicator device is adapted to provide a positive pressure in the internal reservoir. This positive pressure causes the non-powder product in the internal reservoir to continuously flow to the outer surface of the housing for a period of 10 seconds or more.

In contrast, Hancy discloses a pounce applicator. (Title; abstract). Pounce is a fine powder such as pulverized charcoal, chalk, cornstarch, or talcum that can be applied to a perforated pattern so as to transfer a design to an underlying surface. The transferred design facilitates the painting of that surface. (col. 1, lines 15-20). Hancy's applicator includes a hand-sized storage container, a portion of which also serves as the gripping surface. The applicator also includes a replaceable pad unit that includes a core containing a reservoir for pounce and a system of pounce carrying channels. The applicator also includes a support screen, a pounce flow limiter, a foam pad and a covering cloth. External access is provided to permit refilling of the reservoir. Enhanced distribution of pounce, particularly for vertical and overhead surfaces, is obtained through the use of an externally pressed bellows-shaped plug that provides increased air pressure internal to the pad unit. (Abstract; col. 1, line 55 to col. 2, line 5). In more detail, Hancy

discloses that when force or pressure is applied to the end 27 of the air-enhancing plug 26, the protruding portion collapses and compresses the air therein. The compressed air passes through the air-jet hole 28 and into the reservoir 17 and distribution channels 18, creating increased air pressure to the device, and thereby enhancing the movement of pounce through the flow control and out from the covering cloth 24. (col. 4, lines 35-43; Figure 4). Hancy states that the air-enhanced distribution will be especially useful in the application of pounce to vertical or overhead surfaces, where the natural effect of gravity is not of assistance. Still further, the air-pressure provided will serve to prevent clogging and caking of the pounce and keep open the pathways to the working surface of the pounce pad. (col. 4, lines 48-54). Thus, Hancy is using a bellows to provide a blast of air into the applicator so as to enhance the movement of the fine powder (pounce) through the flow control and out from the covering cloth 24.

The Applicant respectfully submits that this blast of air from Hancy's bellows does not create a positive pressure positive pressure in the internal reservoir so as to cause a continuous flow of product for a period of 10 seconds or more, as recited in the Applicant's claims. Hancy's bellows is used to deliver a burst of pounce powder, but not a continuous flow as claimed. Simply stated, such a continuous flow of powder is not enabled or necessary for Hancy's targeted application, which only requires a burst of powder to be applied to a perforated pattern so as to transfer a design to an underlying surface. The transferred design facilitates the painting that surface.

In addition, the Applicant has amended the claims so that the dispensable product is a non-powder.

For at least these reasons, the Applicant submits the claimed invention is patentably distinct over Hancy, and respectfully requests the Examiner to reconsider and withdraw this rejection.

The Examiner rejected claims 1-3, 5-7, 10-13, 15-17, 19, 21, and 23-26 under 35 U.S.C. §103(a) as being unpatentable over Hancy in further view of Iverson (U.S. Patent 2,143,601).

In order for the combination of Hancy and Iverson to render the claimed invention unpatentable, it must disclose or otherwise suggest (when the references are considered as a whole) each and every limitation recited in the claims. MPEP § 2143. Hancy and Iverson fail to

satisfy this standard.

As previously explained, the claimed hand-held self-dispensing applicator device is adapted to provide a positive pressure in the internal reservoir. This positive pressure causes non-powder product in the internal reservoir to flow to the outer surface of the housing.

As correctly noted by the Examiner, Hancy fails to disclose or suggest a bladder as recited in the Applicant's claims. Nor does Hancy disclose a pump chamber and plunger arrangement configured to operate in conjunction with a one-way valve as recited, for example, in the Applicant's claims 27-30. To correct such deficiencies, the Examiner cites Iverson.

Like Miessner, Iverson discloses a fillable fountain pen. (Title, col. 1, lines 1-2). Iverson discloses a filling operation, where the end piece of the pen is removed and the pen is inserted in the ink well. Then, the piston rod d is pressed downwards and when, through the elasticity of the diaphragm c, it has again been raised to its upper position, the ink will rise through the ascending pipe and into the ink container a. (col. 2, lines 8-13). Thus, Iverson's piston rod d and diaphragm c operate to pull ink *into* the pen during a filling operation utilizing an internal vacuum (negative pressure) rather than an internal positive pressure, as recited in the applicant's claims. As such, Iverson does not disclose or suggest providing a positive pressure in the internal reservoir so as to cause product in that internal reservoir to flow to the outer surface of the housing via a plurality of pores or openings, as recited in the Applicant's claims.

For purposes of argument, assuming ink could be expelled by Iverson's pen (even though it is not an intended function), note that there is not a plurality of pores or openings as recited in the Applicant's claims. Rather, there appears to be only one hole going from the container a to the pen point nibs. Nor is ink known to be "a dispensable non-powder product for the purpose of cleaning or treating a target surface", which is the type of product that the Applicant's claimed applicator device dispenses, as now recited in the claims.

In addition, the Applicant respectfully submits the combination of Hancy and Iverson is improper in that, when taken as a whole, there is no motivation or suggestion to combine these references to achieve the Applicant's claimed invention. Section 2143.01 of the MPEP states: "The mere fact that references can be combined or modified is not sufficient to establish prima facie obviousness." In addition, the "level of skill in the art cannot be relied upon to provide the suggestion to combine references."



Rather, there must be some objective reason to combine the teachings of the references to make the claimed invention. The Applicant cannot find such an objective reason, and the Examiner has provided no reason other than ordinary skill in the art, in conjunction with the idea that a piston rod and diaphragm arrangement can be used as a pressure inducing mechanism. However, the Applicant respectfully submits that such a combination would cause Hancy's pounce applicator to pull the pounce powder *into* the applicator (through vacuum action) rather than emit the pounce powder out to target surface.

As previously explained, Iverson discloses a fillable fountain pen, where the end piece of the pen is removed and the pen is inserted in the ink well. Then, the piston rod d is pressed downwards and when, through the elasticity of the diaphragm c, it has again been raised to its upper position, the ink will rise through the ascending pipe and into the ink container a. (col. 2, lines 8-13). Thus, Iverson's piston rod d and diaphragm c operate to pull ink *into* the pen during a filling operation.

On the other hand, Hancy teaches the use of a baffle for "enhancing the movement of pounce through the flow control and out from the covering cloth 24." (col. 4, lines 41-43). Significantly, Hancy further teaches that the "air-enhanced distribution will be especially useful in the application of pounce to vertical or overhead surfaces, where the natural effect of gravity is not of assistance" (col. 2, lines 2-5; col. 4, lines 48-51). Thus, a primary objective of Hancy is the use of a baffle to enhance the movement of pounce from inside the applicator to outside the applicator.

With this objective of Hancy in mind, the Applicant can see no reason why one skilled in the art would be motivated to eliminate the baffle (which is designed to cause outward flow) and replace it with Iverson's piston rod d and diaphragm c (which is designed to cause inward flow). To do so would require the reader to ignore Hancy's objective - to enhance the movement of pounce from inside the applicator to outside the applicator. The MPEP §2141.02 states that references must be considered in their entirety, including disclosure that teaches away from the claimed invention. For at least these reasons, the Applicant respectfully submits that the requisite motivation to combine or modify is lacking.

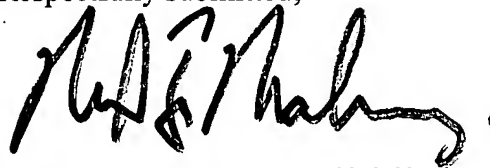
Even if there was motivation to do so, note that modifying Hancy by Iverson would defeat the intended operation of Hancy and would require a substantial reconstruction and redesign of

the pounce applicator disclosed by Hancy. In particular, the bellows of Hancy would have to be replaced with Iverson's piston rod d and diaphragm c. In addition, Iverson's piston rod d and diaphragm c would have to be modified so that the resulting pump cycle had no inward suction (which causes a vacuum effect). Such a combination therefore appears to be in contradiction to MPEP § 2143.01, which states that a proposed modification cannot change the principle of operation of a reference. In this particular case, the "suggested combination of references would require a substantial reconstruction and redesign of the elements shown in [Hancy] as well as a change in the basic principle under which the [Hancy] construction was designed to operate." MPEP § 2143.01 Thus, the Applicant respectfully submits the combination is improper.

For at least these reasons, the Applicant submits neither Hancy or Iverson, nor their combination, discloses or suggests each and every limitation of the claimed invention. As such, the Applicant respectfully requests the Examiner to reconsider and withdraw this rejection.

The Applicant believes the above remarks to be fully responsive. Favorable action is solicited. The Applicant kindly invites the Examiner to contact the undersigned attorney by telephone, facsimile, or email for quickest resolution, if there are any remaining issues.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "S. J. Asmus", with a stylized flourish at the end.

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